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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

8 YEVGENIY V. LESHCHINSKIY,)
9)
9 Petitioner,) Case No. C11-777-RSL-BAT
10)
10 v.)
11) **REPORT AND**
11 NATHALIE R. ASHER, Field Office Director,) **RECOMMENDATION**
12 et al.,)
12 Respondents.)
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14 On May 6, 2011, petitioner, proceeding pro se, filed a petition for writ of habeas corpus
15 pursuant to 28 U.S.C. § 2241, challenging the constitutional and statutory authority of the United
16 States Immigration and Customs Enforcement (“ICE”) to detain him any further due to the
17 unlikelihood of his removal from the United States in the reasonably foreseeable future. Dkt. 7.
18 He requested that this Court order respondents to release him under an order of supervision until
19 his removal from the United States becomes feasible. Dkt. 7 at 7. On August 23, 2011,
20 however, respondents filed a declaration along with supporting documentation which indicates
21 that petitioner was removed from the United States to Ukraine on July 12, 2011. Dkt. 19.

22 “Article III of the Constitution limits federal ‘Judicial Power,’ that is, federal-court
23 jurisdiction, to ‘Cases’ and ‘Controversies.’” *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388,

1 395 (1980). For a federal court to have jurisdiction, “an actual controversy must exist at all
2 stages of the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th
3 Cir. 2002). “When a controversy no longer exists, the case is moot.” *Id.* “For a habeas petition
4 to continue to present a live controversy after the petitioner’s release . . . there must be some
5 remaining collateral consequence that may be redressed by success on the petition.” *See Abdala*
6 *v. Immigration and Naturalization Serv.*, 488 F.3d 1061, 1065 (9th Cir. 2007) (internal quotation
7 marks omitted).

8 Here, petitioner does not challenge his underlying removal order, but merely his
9 continued detention pending the execution of that order. Because no collateral consequences
10 remain, and there is no relief left to grant on his petition, the Court finds that petitioner’s habeas
11 petition is moot and should be dismissed. *See Abdala*, 488 F.3d at 1065 (holding that removal
12 mooted habeas challenge to length of detention); *see also Picrin-Peron v. Rison*, 930 F.2d 773,
13 776 (9th Cir. 1991) (finding that because petitioner only requested release from custody and had
14 been released, the court could provide no further relief and the petition was properly dismissed).

15 A proposed Order accompanies this Report and Recommendation.

16 DATED this 24th day of August 2011.

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18 BRIAN A. TSUCHIDA
19 United States Magistrate Judge
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